

**STATE OF MICHIGAN**  
**DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 108904-001-SF

v

Blue Cross Blue Shield of Michigan

Respondent

---

Issued and entered  
this 27th day of May 2009  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On December 7, 2009, physical therapist XXXXX, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1951 *et seq.* The Commissioner reviewed the request and accepted it on December 14, 2009.

The Commissioner notified Blue Cross and Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on December 22, 2009.

Under Section 2(2) of Act 495, MCL 550.1952(2), the Commissioner conducts this external review as though the Petitioner was a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

**II**  
**FACTUAL BACKGROUND**

The Petitioner receives health care benefits through the State of Michigan Health Plan PPO, a self-funded group. BCBSM administers the plan. Her benefits are defined in the *State Health*

*Plan Benefit Guide* (the benefit guide). Petitioner has multiple sclerosis and uses a wheelchair for mobility.

On February 9, 2009, the Petitioner's doctor prescribed for the Petitioner a device known as a standing frame which allows the Petitioner to stand. The device is considered to be durable medical equipment, some of which is covered under the Petitioner's health plan. In this case, BCBSM concluded that the device was not a covered benefit. The Petitioner appealed BCBSM's denial. BCBSM held a managerial-level conference on November 4, 2009, and issued a final adverse determination dated November 9, 2009, upholding the denial.

### **III ISSUE**

Is BCBSM required to provide coverage for the standing frame?

### **IV ANALYSIS**

#### **Petitioner's Argument**

The Petitioner indicates that her multiple sclerosis requires her to spend all her time in a wheelchair. As a consequence, she has little or no circulation in her lower extremities. Her calves and feet feel like ice. Her feet swell and hurt by the end of the day due to the swelling.

By using the standing frame, the Petitioner expects to increase circulation in her lower limbs which will decrease the side effects of being in a wheelchair. She lives alone and needs to be able to stand long enough to transfer in and out of her wheelchair. She hopes to gain strength by using the standing frame.

The Petitioner believes that her standing frame is medically necessary for treatment of her condition. Since durable medical equipment is a covered benefit under her coverage she argues that BCBSM is required to cover her standing frame.

#### **BCBSM's Argument**

In its final adverse determination, BCBSM explained its denial of coverage:

Your State of Michigan group has coverage under the SUPPORT Program for DME, prosthetic and orthotic appliances. Your DME benefits are described on Pages 36 and 37 of your *State of Michigan State Health Plan PPO Benefit Guide*. Although it's not listed in the *Guide*, the SUPPORT Program only covers those items that are approved by Medicare. Because Medicare does not cover the standing frame, we are unable to grant approval for it either. As a result, if you choose to purchase this item, you will remain liable for the charge.

BCBSM says that in many instances it covers the same items that are covered by Medicare Part B although, in some instances, BCBSM guidelines may differ. In the Petitioner's case, Medicare Part B does not cover standing frames. BCBSM understands that the Petitioner believes that this equipment will help her circulation however; there are no provisions in the benefit guide to cover this type of equipment.

#### Commissioner's Review

The Petitioner's benefits are described in the benefit guide. The coverage related to durable medical equipment is described on pages 36-38 includes the following provisions:

You have coverage under the SUPPORT program for medical equipment and supplies. SUPPORT stands for Select Utilization of Providers for Prosthetic, Orthotic and Rehabilitative Technology.

\* \* \*

#### **Covered items through a medical supplier**

Types of equipment, supplies and services include:

- Durable medical equipment used in your home, such as hospital beds, wheelchairs, walkers, canes and oxygen equipment

\* \* \*

#### **SUPPORT program exclusions and limitations**

In addition to applicable exclusions and limitations listed elsewhere in this booklet, SUPPORT program coverage is subject to the following:

- Items primarily for your comfort or convenience are not covered

\* \* \*

Durable medical equipment that is not reasonable and necessary in the care or treatment of illness or injury is not covered. Some of these items include safety equipment, exercise equipment or home (or vehicle) modifications such as lifts, elevators and ramps.

The following are not covered:

- Nonmedical equipment
- Exercise and hygienic equipment
- Comfort and convenience items
- Self-help devices such as elevators

- Deluxe equipment, such as motorized wheelchairs, unless medically necessary and required so the patient can operate the equipment themselves
- Routine maintenance expenses, such as the cost of batteries

In addition to these standards, when determining what durable medical equipment BCBSM is required to cover, it is necessary to determine what items are covered by Medicare Part B. A device such as the standing frame system is not listed as an item of DME that Medicare covers. In fact, under non-covered DME items Medicare lists “E0637 sit-stand with seatlift,” the same device for which Petitioner seeks coverage. It is not a covered benefit under the Certificate since it is not a covered item under the Medicare part B program.

While the device was recommended by her physician and likely will provide the Petitioner with relief from her symptoms, it does not meet the coverage definition of durable medical equipment as set forth by Medicare and in Petitioner’s benefit guide. Therefore, the device is not a covered benefit.

## **V ORDER**

BCBSM’s final adverse determination of November 9, 2009, is upheld. BCBSM is not required to cover the Petitioner’s standing frame.

This is a final decision of an administrative agency. Any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. See MCL 550.1915(1), made applicable by MCL 550.1952(2). A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.